REMARKS

Applicants thank the Examiner for consideration given the present application. Claims 24-36, 38 and 39 are presently pending. Claims 24, 26 and 32 are independent. Applicants respectfully request reconsideration of the rejected claims in light of the amendment and remarks presented herein, and earnestly seek timely allowance of all pending claims.

Claim Rejections Under 35 U.S.C. § 103 – Righi

Claims 24 and 25 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Righi ("Righi", U.S. 4,182,050). This rejection is respectfully traversed.

Independent claim 24 recites, *inter alia*, "**wherein clothes can be put into and taken out from said rotary drum through said opening, in an opened state of said door**". Righi does not teach the above-mentioned claim feature. In fact, Righi teaches away from the claimed invention. A prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention. *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984). *MPEP § 2141.02.* Righi shows door 18 is "opened only upon energizing of the lamps" (*See Column 2, Lines 52-53*). However, the claimed invention shows that "the clothes can be put into and taken out from said rotary drum through said opening" and also claims "an irradiating unit fixed to said door . . . ." In the instant invention, therefore, the irradiating unit is fixed to the same door that is opened to retrieve clothes from the rotary drum and the door can be opened at times other than upon energizing of the lamps, unlike Righi (*See Applicants' Specification, Page 20*). Righi moreover, discusses that the irradiating unit may not be fixed to the door.

Moreover, claim 25 recites, *inter alia*, "**wherein the ultra-violet ray emitted from said light source has a wavelength of at least 280 nm**". Righi does not teach the above-mentioned feature. In fact, the Examiner, on page 3 of the Office Action, admits the Righi does not teach the feature. The Examiner states that it would have been an obvious matter of design choice to recite a specific wavelength. However, for a 35 U.S.C. § 103 rejection to be proper, a *prima facie* case of obviousness must be established. *See M.P.E.P. 2142.* One requirement to establish *prima facie* case of obviousness is that the prior art references, when combined, must teach or

suggest all claim limitations. *See M.P.E.P. 2142; M.P.E.P. 706.02(j).* Thus, if the cited references fail to teach or suggest one or more elements, then the rejection is improper and must be withdrawn. Applicants submit the Examiner has failed to establish a *prima facie* case of obviousness since the Examiner has failed to provide a reference for the above-mentioned feature. Therefore, the Examiner's implied use of Official Notice is challenged.

For at least the reasons stated above, independent claim 24 is patentably distinct from Righi. Claim 25 is at least allowable by virtue of its dependency on the corresponding allowable independent claim.

Accordingly, it is respectfully requested to withdraw this obviousness rejection of claims 24 and 25 based on Righi.

Claim Rejections Under 35 U.S.C. § 103 – Candor, Righi

Claims 26-36 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Candor ("Candor", U.S. 2,727,315) in view of Righi ("Righi", U.S. 4,182,050). This rejection is respectfully traversed.

Independent claim 26 was previously rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Candor ("Candor", U.S. 2,727,315). The Examiner has indicated that the grounds of rejection have changed, and therefore our previous arguments are moot because there is a new grounds of rejection. However, even though the Examiner states that this independent claim is unpatentable over Candor in view of Righi, the Examiner still relies on Candor as before. Therefore, Applicants request a response to the arguments of record.

Moreover, independent claim 26 recites, *inter alia*, "**wherein said control means controls said irradiating means such that an irradiating step of emitting the light beam including ultra-violet ray into said rotary drum is performed under a state where temperature in said rotary drum is maintained at least 30°C and at most 60°C after cooling down subsequent to the end of the drying process**". The Examiner asserts that this it would have been an obvious matter of design choice to recite a specific temperature. The Applicant disagrees with this assertion. Previous designs included an irradiating unit, but damage to fiber occurred in most cases (*See Applicants' Specification, Pages 15-16*). Therefore, in order to

prevent damage to fiber as well as provide a sun-dried fragrance, the claimed invention prescribes a temperature at which to operate the claimed invention. Presence of a property not possessed by the prior art is evidence of nonobviousness. *In re Papesch*, 315 F.2d 381, 137 USPQ 43 (CCPA 1963). Therefore, not only is it not an obvious matter of design choice to recite a specific temperature, but the recitation also provides for unexpected results and therefore is nonobvious.

Moreover, Candor is simply directed to a laundry dryer, not washing machine and therefore cannot perform the same invention as the Examiner asserts.

Furthermore, for a 35 U.S.C. § 103 rejection to be proper, a *prima facie* case of obviousness must be established. *See M.P.E.P. 2142*. One requirement to establish *prima facie* case of obviousness is that the prior art references, when combined, must teach or suggest all claim limitations. *See M.P.E.P. 2142; M.P.E.P. 706.02(j)*. Thus, if the cited references fail to teach or suggest one or more elements, then the rejection is improper and must be withdrawn. Applicants submit the Examiner has failed to establish a *prima facie* case of obviousness since the Examiner has failed to provide a reference for the above-mentioned feature. Therefore, the Examiner's implied use of Official Notice is challenged.

Independent claim 32 recites, *inter alia*, "**wherein said drying process is followed by a cool-down process in which the air in said washing tank is circulated and the temperature in said washing tank is decreased, and wherein said control means controls said irradiating means such that a step of emitting the light beam into said washing tank is started under a state where temperature in said washing tank is at least 40 °C and lower than 70 °C after said cool-down process, or a state where temperature in said washing tank is at least 40 °C and lower than 70 °C during said cool-down process**". The Examiner has not even addressed these features in his rejection of claim 32. Moreover the temperature recitation would not have been an obvious matter of design choice. Previous designs included an irradiating unit, but damage to fiber occurred in most cases (*See Applicants' Specification, Pages 15-16*). Therefore, in order to prevent damage to fiber as well as provide a sun-dried fragrance, the claimed invention prescribes a temperature at which to operate the claimed invention. Presence of a property not possessed by the prior art is evidence of nonobviousness. *In re Papesch*, 315 F.2d

381, 137 USPQ 43 (CCPA 1963). Therefore, not only is it not an obvious matter of design choice to recite a specific temperature, but the recitation also provides for unexpected results and therefore is nonobvious.

Furthermore, as stated above, for a 35 U.S.C. § 103 rejection to be proper, a *prima facie* case of obviousness must be established. *See M.P.E.P. 2142.* One requirement to establish *prima facie* case of obviousness is that the prior art references, when combined, must teach or suggest all claim limitations. *See M.P.E.P. 2142; M.P.E.P. 706.02(j).* Thus, if the cited references fail to teach or suggest one or more elements, then the rejection is improper and must be withdrawn. Applicants submit the Examiner has failed to establish a *prima facie* case of obviousness since the Examiner has failed to provide a reference for the above-mentioned features.

For at least the reasons stated above, independent claims 26 and 32 are patentably distinct from Candor and Righi. Claims 27-31 and 33-36 is at least allowable by virtue of its dependency on corresponding allowable independent claim.

Accordingly, it is respectfully requested to withdraw the obviousness rejection of claims 26-36 based on Candor and Righi.

Claim Rejections Under 35 U.S.C. § 103 – Candor, Toshihiro

Claims 38 and 39 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Candor ("Candor", U.S. 2,727,315) in view of Toshihiro ("Toshihiro", JP 10-043481). This rejection is respectfully traversed.

However, the Examiner should have stated that the rejection is based on Candor in view of Righi, further in view of Toshihiro since claims 38 and 39 depend from claim 32 which was rejected under Candor in view of Righi. This rejection is respectfully traversed.

For at least the reasons stated above, independent claim 32, from which claims 38 and 39 depend, are patentably distinct from Candor and Righi. Toshihiro does not remedy the noted deficiencies of Candor and Righi and thus cannot correct the defects of the Examiners rejection based solely on Candor and Righi. Claims 38 and 39 are allowable at least by virtue of their dependency on corresponding allowable independent claim.

Accordingly, it is respectfully requested to withdraw this obviousness rejection of claims 38 and 39 based on Candor, Righi and Toshihiro.

Conclusion

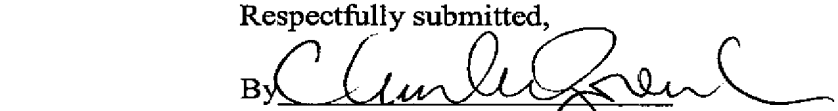
In view of the above amendment, Applicants believe the pending application is in condition for allowance.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Charles Gorenstein (Reg. No. 29,271) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.14; particularly, extension of time fees.

Date: February 5, 2009

Respectfully submitted,

By 

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